
OLR Bill Analysis

sSB 1093

AN ACT CONCERNING REVISIONS TO THE INSURANCE STATUTES.

SUMMARY:

This bill revises various insurance statutes, as detailed in the section-by-section analysis below. Among other things, it:

1. allows the insurance commissioner to share and receive confidential information with and from the Federal Insurance Office and the Bank for International Settlements;
2. requires an insurer's or health care center's (HMO) board of directors to receive and review financial examination reports from the commissioner;
3. updates the captive insurance statutes to permit captive companies flexibility to relocate to Connecticut; and
4. reduces, from 45 to 20 days, the timeframe insurers and HMOs have to make coverage determinations for claims submitted electronically.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage, except as otherwise noted below.

§ 1 — CONFIDENTIAL INFORMATION

The bill allows the insurance commissioner to receive and share confidential information from and with the Federal Insurance Office, which was created under the federal Dodd-Frank Act, and the Bank for International Settlements, an international organization that fosters international monetary and financial cooperation and serves as a bank

for central banks. By law, the commissioner may already receive and share confidential information from and with (1) these groups relative to examinations and (2) the National Association of Insurance Commissioners and the International Association of Insurance Supervisors.

§ 2 — FINANCIAL EXAMINATION REPORTS

By law, the insurance commissioner may conduct financial examinations of insurers, HMOs, and similar entities doing business in Connecticut.

The bill requires the insurance commissioner to provide an examination report to the examined entity, along with any recommendations or written statements from the commissioner or examiner. The entity's board of director's secretary must (1) give a report copy or summary to each director and (2) certify to the commissioner in writing that this has occurred.

The bill also requires the examined entity's chief executive officer, within 90 days after receiving the report or summary, to present it to the board of directors at a regular or special meeting.

EFFECTIVE DATE: October 1, 2013

§ 3 — LATE FILING FEE

By law, if an insurer or HMO files an annual or quarterly financial statement with the insurance commissioner past its due date, the commissioner fines the entity \$175 for every day it is late.

The bill allows the commissioner to waive the late filing fee if (1) the entity cannot file the statement because the governor of its home state proclaimed a state of emergency that prevents the entity from filing it or (2) the entity's home state regulatory official has allowed the entity to file it late.

EFFECTIVE DATE: October 1, 2013

§§ 4-9 — CAPTIVE INSURERS

The law allows a captive insurer to be licensed and domiciled in Connecticut to transact life insurance, annuity, health insurance, and commercial risk insurance business. A captive insurer is, in its simplest form, an insurer that is a wholly-owned subsidiary whose primary function is to insure all or part of the risks of its parent company.

§§ 4, 7, & 9 — *Transfer of Domicile*

The bill allows (1) alien captive insurers (i.e., those formed under the jurisdiction of a foreign country) to relocate to Connecticut without being an admitted insurer and (2) captive insurers to change their domicile (home state) as other insurers are permitted to do by applying existing laws concerning transfer of domicile to captive insurers.

The bill authorizes the insurance commissioner to adopt regulations to establish the circumstances under which the laws concerning acquisition of controlling interest apply to captives. It narrows the applicability of these laws to risk retention captives, instead of all captives.

§ 5 — *Personal Lines Limitation*

Under current law, no captive can write private passenger motor vehicle or homeowners insurance. The bill narrows this prohibition, stating that no captive can write personal risk insurance for private passenger motor vehicle or homeowners insurance. Thus, a captive can write commercial risk insurance business, including commercial motor vehicle insurance.

§ 6 — *Branch Captive*

The bill eliminates a provision that limits branch captives to writing only the employee benefits business of its parent and affiliated companies.

Under current law, a branch captive insurer cannot do insurance business in Connecticut unless it maintains its principal place of business here. The bill relaxes the requirement, requiring that the

insurer only maintain a place of business here.

By law, a branch captive is any alien captive insurer the commissioner licenses to transact business in Connecticut.

§ 8 — Credit for Reinsurance

By law, a captive can reinsure another insurer's risks, but only those risks the captive is authorized to insure directly. It can also take credit as an asset or deduction from liability for ceding risks to certain reinsurers. The bill allows the commissioner to approve, in writing, credit for reinsurance in other circumstances.

EFFECTIVE DATE: October 1, 2013

§§ 10-11 — PREMIUM FINANCE COMPANY LICENSE FEE

The bill increases, from \$50 to \$300, the application and annual renewal fees for an insurance premium finance company license. Engaging in such business without a license is punishable by up to one year in prison, up to a \$2,000 fine, or both.

EFFECTIVE DATE: October 1, 2013

§ 12 — HMO FINANCIAL EXAMINATION

By law, the insurance commissioner can examine an HMO's financial condition. The bill allows the commissioner to order an HMO to produce books, records, or other information necessary for him to conduct the examination. The HMO must pay for any such examination.

EFFECTIVE DATE: October 1, 2013

§§ 14-15 — TIME LIMITS FOR COVERAGE DETERMINATIONS

By law, insurers, HMOs, and similar entities that deliver, issue, renew, amend, or continue in Connecticut individual or group health insurance policies must make coverage determinations and notify the insured person or the health care provider within 45 days after receiving a claim.

The bill retains the 45-day requirement for claims filed in paper format, but reduces the timeframe to 20 days for electronically filed claims. The bill also extends the requirement to health insurance policies that provide single service ancillary health coverage (e.g., dental, vision, or prescription drug coverage).

EFFECTIVE DATE: October 1, 2013

§ 16 — SURETY BAIL BOND AGENT EXAMINATION ACCOUNT

PA 11-45 created the surety bail bond agent examination account as a separate, non-lapsing account in the Insurance Fund. The bill requires any funds remaining in the account at the end of each calendar year to be transferred to the General Fund. Current law transfers the funds at the end of each fiscal year.

§§ 17-18 — THIRD PARTY ADMINISTRATORS

By law, the Insurance Department licenses and regulates third-party administrators (TPA). Under current law, a TPA is generally one who directly or indirectly underwrites; collects premiums or charges; or adjusts or settles claims on Connecticut residents with respect to life, annuity, or health coverage offered or provided by an insurer. The bill expands the definition of TPA by removing the limitation that coverage be offered or provided by an insurer. Thus, a TPA could be acting on behalf of a self-insured plan.

Current law exempts from the TPA licensing requirement a licensed insurer that underwrites, collects premiums or charges, or adjusts or settles claims, except for its policyholders, subscribers, and certificate holders. The bill instead specifies that a licensed insurer that also acts as a TPA is exempt from the TPA licensing requirement, but only if its activities are limited to life, annuity, or health coverage for which it is licensed. By law, such insurers must (1) be subject to the Connecticut Unfair Insurance Practices Act, (2) respond to all complaint inquiries from the Insurance Department within 10 days after receiving them, and (3) obtain a customer's prior written consent for advertising mentioning the customer.

Under the law, the insurance commissioner does not have authority to regulate a self-insured plan subject to the federal Employee Retirement Income Security Act (ERISA). But the law specifies that the commissioner is authorized to regulate activities an insurer undertakes for such self-insured plans that do not relate to the health benefit plan and that comport with his authority under ERISA to regulate the business of insurance. The bill clarifies that the commissioner is authorized to regulate the insurer's activities when it is acting as a TPA.

§ 19 — SURPLUS LINES BROKERS

By law, the insurance commissioner must maintain, publish, and make available to surplus lines brokers, a list of insurance lines that are unavailable from licensed insurers. Licensed surplus lines brokers and their clients who procure insurance that is not on the commissioner's list must file with the commissioner an affidavit showing they made diligent efforts to obtain the insurance from a licensed insurer.

The bill requires the affidavit to be filed electronically on the first day of February, May, August, and November in each year. Under current law, the affidavits are due to the commissioner within 45 days after procuring the insurance.

§ 20 — LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

The bill specifies that policies providing benefits pursuant to Medicare Parts C or D are not covered by the Connecticut Life and Health Guaranty Association.

BACKGROUND

Related Bill

sHB 6379, favorably reported by the Insurance and Real Estate Committee, makes the same change as in § 19 of this bill. sHB 6379 also requires a signed statement, instead of an affidavit, eliminating a notary requirement; requires the statement to include specified information; and defines "diligent effort" to mean the surplus lines broker received at least six declinations from authorized insurers.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/19/2013)